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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,169	01/26/2004	Charles Brown	18277.00	6711

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EXAMINER
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YEAGLEY, DANIEL S

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,169

Applicant(s)

BROWN, CHARLES

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 5, 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. The following claims are objected to because of the following informalities:

Claim 2 and claim 9, the terms "*the means*" lack proper antecedent basis.

Claim 6, the term "*the seat*" lacks proper antecedent basis.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, line 1-2, the term "said curved members" lacks sufficient antecedent basis for this limitation in the claim. Note the curved members were cited in claim 1.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 4, 6, 8, 10, 11, and 16 – 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwinn '755.

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Schwinn shows an auxiliary wheel attachment having a U-shaped member which fits against a portion of the bicycle underneath the seat (figure 1, column 4, line 36-42) comprising two wheels 57 mounted one end of two curved braces 38,39,40, such that the wheels are mountable at multiple locations on the braces (column 3-4, lines 73-2), and wherein the two curved braces, two struts 35 and two curved members (L-shaped members 37; figure 2) are rigidly connected together sufficiently to support an adult rider, such that the curved braces each comprise a first long straight section 39 (figure 2) which includes a first short straight section with a second long straight section 38 integrally formed together by first and second radius sections, wherein the struts are integrally formed together by first and second curved sections between a first straight section (upper portion of 36) having a long straight section (at numeral 35 in figure 3) and a short straight section (at numeral 12 in figure 3).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwinn '755.

Schwinn shows an auxiliary wheel attachment having two curved braces, two struts and two L-shaped curved members rigidly connected together by integrally connected components, but failed to show a nut and bolt means for rigidly connecting the components together.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the integral components of Schwinn auxiliary wheel attachment with separate components dependent upon users preference that could be integrally fasten together by another means, such as a nut and bolt means for rigidly connecting the components together into an integral part; simply as an alternative means of constructing a wheel attachment utilizing a known connecting means for assembling components into an integral part; as is well known in the art to provide a simpler structure of independent parts to reduce size for ease of shipping and reduce cost.

8. Claims 7, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwinn '755.

Schwinn shows an auxiliary wheel attachment having curved braces, struts and L-shaped curved members composed of metal tubular material, but failed to disclose the attachment composed of flat strip material.

Schwinn discloses the claimed invention except for flat strip material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed Schwinn's auxiliary wheel attachment from an alternative geometric shaped material, such as flat metal strips instead of tubular material, since the examiner takes Official Notice of the equivalence of tubular and flat material for their use in the construction of auxiliary wheel apparatus and the selection of any of these known equivalents to construct a wheel attachment would be well within the level of ordinary skill in the art and would have been an obvious matter of design choice.

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9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwinn '755 in view of Pawsat '133.

Schwinn disclosed an auxiliary wheel attachment having a U-shaped member which fits against a portion of the bicycle underneath the seat by a securing means (column 4, line 36-42) as stated above, but failed to disclose the attachment being connected to the bicycle by a U-bolt.

Pawsat shows an auxiliary wheel attachment having curved braces, struts and L-shaped curved members rigidly connected together, wherein the wheel attachment is connected to a portion of the bicycle by a U-bolt securing means (figure 1 and 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the auxiliary wheel attachment of Schwinn with a common securing means such as a U-bolt to securely fasten the attachment to a portion of the bicycle utilizing a U-bolt type securing means as suggested by Pawsat.

***Allowable Subject Matter***

10. Claims 5 and 13 – 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pawsat et al '947, Gallo, Jr. et al '524, Anderson '764, Hess '172, Sutton '221, Oberg et al '183, Honig '418, Dyksma'268, Abel '169 and Pearl '845 show an auxiliary wheel attachment utilizing curved components.

Muller et al '090 and Bulson '327 show an auxiliary wheel attachment utilizing a flat metal material.

Holley '361 discloses an auxiliary wheel attachment having wheels mounted to one end of a curved brace wherein the wheels are mountable at multiple locations (figure 4).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is **703 - 305 - 0838**. The examiner can normally be reached on Mon. - Fri; first Friday off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D Morris can be reached on **703 - 308 - 0629**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

In the near future, because of a pending move of the examining corps to a new campus, the examiner and SPE telephone numbers will change to **571 - 272 - 6655** and **571 - 272 - 6651**; respectively.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.

  
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